

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES)	
)	
V.)	10-CR-80-04-SM
)	
GARY PATCH)	

ASSENTED-TO MOTION TO EXTEND TIME FOR
FILING NOTICE OF APPEAL

Defendant, Gary Patch, through counsel, Andrew S. Winters, respectfully requests that this Honorable Court extend the time for filing a notice of appeal pursuant to Federal Rule of Appellate Procedure 4(b)(4).

In support of this request it is stated that:

1. Mr. Patch notified undersigned counsel that he wished to file a notice of appeal of the sentence imposed by this Court on September 30, 2011, and entered on October 3, 2011.

2. On October 14, 2011, within the fourteen-day time period for filing criminal appeals allowed by Federal Rule of Appellate Procedure 4(b)(1), undersigned counsel drafted a notice of appeal and attempted to file it through ECF.

3. Due to a user error by undersigned counsel, the notice of appeal was not successfully filed on October 14, 2011. In looking through the Court's electronic file

during the evening of October 25, 2011, undersigned counsel realized the error.

4. It is requested that the Court find that counsel's error constitutes "excusable neglect" pursuant to Federal Rule of Appellate Procedure 4(b)(4). The rule allows an extension of up to thirty days. The notice of appeal will be filed as soon as this Motion is ruled upon.

5. Assistant United States Attorney Jennifer C. Davis assents to this Motion.

WHEREFORE, it is respectfully requested that this Honorable Court grant this request for an extension of time and any other relief deemed in the interests of justice.

Respectfully Submitted,
Gary Patch
By his Attorney,

Date: October 26, 2011

/s/ Andrew S. Winters
Andrew S. Winters
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CERTIFICATE OF SERVICE

I Andrew S. Winters, herein certify that on this 26th day of October, 2011, a copy of the within was electronically delivered to Assistant United States Attorney Jennifer C. Davis.

/s/ Andrew S. Winters
Andrew S. Winters